

NEW HAMPSHIRE REAL ESTATE COMMISSION

V.

GILBERT W. COX & MARLENE MINEMIER,

ORDER

FILE NO. 2008-013

This matter comes before the Real Estate Commission on the complaint of the New Hampshire Real Estate Commission through its Investigator, Ann Flanagan, who alleges violations of NH RSA 331-A:26, XXII; Rea 701.01; Rea 404.04 (a); 404.04 (e); and Rea 702.02 by Gilbert W. Cox; and RSA 331-A:26, XXVII by Marlene Minemier. The Real Estate Commission after notice and hearing in the above captioned matter makes the following findings of fact:

1. Gilbert W. Cox (hereinafter referred to as Respondent Gilbert Cox) was licensed as a real estate salesperson on 03/10/03, and was so licensed and associated with KM Minemier & Associates, LLC at the time of the alleged violations.
2. Marlene Minemier (hereinafter referred to as Respondent Marlene Minemier) was licensed as a real estate salesperson on 8/22/02 and was licensed as a real estate broker on 10/21/03, and was so licensed and the principal broker of KM Minemier & Associates, LLC at the time of the alleged violations.
3. The Commission initiated a parallel complaint through its Investigator, based on Complaint File No. 2008-013, Michael Bentley v Gilbert Cox & Marlene Minemier.

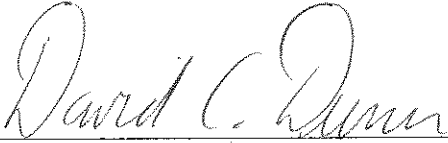
4. Michael Bentley requested a withdrawal of his complaint, and at its November 16, 2010 Commission Meeting, the Commission decided to accept his withdrawal and proceed with the Commission complaint initiated through its Investigator.
5. On 4/18/07 Respondent Gilbert Cox executed a Purchase & Sales Agreement (P&S) with 1House.com (Gilbert Cox, manager) as the buyer.
6. There was no written disclosure to the sellers that Respondent Gilbert Cox was a licensed real estate agent (RSA 331-A:26, XXII).
7. The P&S indicated that Exit 1<sup>st</sup> Realty represented the sellers, and that KM Minemier represented the buyer.
8. The P&S also indicated a \$5,000 escrow deposit held by Exit 1<sup>st</sup> Realty.
9. Respondent Gilbert Cox submitted an agency disclosure indicating he was a non-agent for Exit Realty.
10. Respondent Marlene Minemier as principal broker indicates in her Form 11-A reply that Respondent Bert Cox kept Exit 1<sup>st</sup> Realty unaware of this transaction (RSA 331-A:26, XXII).
11. Respondent Marlene Minemier stated to the Commission Investigator that there were no agency disclosures (Rea 701.01), no listing contract (Rea 404.04, a), no buyer-agency agreement (Rea 404.04, e), and no \$5,000 deposit submitted to her real estate agency (Rea 702.02) by Respondent Gilbert Cox.
12. Requests had been made to Respondent Gilbert Cox and through his attorney for the above documentation, but Respondent Cox in his reply to the complaint indicated that the above P&S was not the one used in the transaction and that the actual P&S had a \$100 cash deposit held by the seller.

Based on the foregoing findings of fact, the Commission hereby issues the following rulings of law:

The charges against Respondent Gilbert Cox were dismissed based on a Consent Order entered into with the Commission, dated October 18, 2011.


Respondent Gilbert Cox did not make his principal broker aware of what he was doing in this transaction, and the Commission does not feel that the principal broker failed to reasonably supervise. Therefore, the Commission rules that Respondent Marlene Minemier did not violate RSA 331-A:26, XXVII.

Commissioner Daniel S. Jones evaluated this case and did not take part in the hearing or decision.

  
David C. Dunn, Presiding Officer 11/30/2011  
DATE

  
William E. Barry, Commissioner 11/30/2011  
DATE

  
James R. Therrien, Commissioner 12/02/2011  
DATE

  
Paul A. Lipnick, Commissioner 11/30/11  
DATE